



FEDERAL ELECTION COMMISSION

11 CFR Part 113

[NOTICE 2018-05]

Rulemaking Petition: Former Candidates' Personal Use

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition; notification of availability.

SUMMARY: On February 5, 2018, the Federal Election Commission received a Petition for Rulemaking, which asks the Commission to revise and amend the existing rules concerning the personal use of campaign funds, specifically to clarify the application of those rules to former candidates and officeholders. The Commission seeks comments on the petition.

DATES: Comments must be submitted on or before [insert date 60 days after the date of publication in the Federal Register].

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at <http://www.fec.gov/fosers>, reference REG 2015-04. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social

security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Sean J. Wright, Attorney, Office of General Counsel, 1050 First Street NE, Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On February 5, 2018, the Commission received a Petition for Rulemaking from the Campaign Legal Center, asking the Commission to revise and amend 11 CFR 113.1(g) and 11 CFR 113.2, the regulations pertaining to the personal use of campaign funds, specifically to clarify the application of those rules to former candidates and officeholders.

The Federal Election Campaign Act, 52 U.S.C. 30101-46 (the "Act"), and Commission regulations provide that a candidate's authorized committee may use its funds for several specific purposes, as well as for "any other lawful purpose," so long as the use does not constitute the conversion of campaign funds to "personal use." 52 U.S.C. 30114(b); 11 CFR 113.1(g), 113.2(e).

Campaign funds "shall be considered to be converted to personal use if [the funds are] used to fulfill any commitment, obligation or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of [f]ederal office." 52 U.S.C. 30114(b)(2); see also 11 CFR 113.1(g). The Act and Commission regulations provide a non-exhaustive list of uses of campaign funds that are per se personal use. 52 U.S.C. 30114(b)(2); 11 CFR 113.1(g)(1)(i). For uses of campaign funds not on this list, the Commission determines, on a case-by-case basis, whether they constitute personal use. 11 CFR 113.1(g)(1)(ii).

The petition asks the Commission to open a rulemaking to clarify the permissible use of campaign funds for former candidates and officeholders. The petition raises two discrete questions for the Commission to resolve during its proposed rulemaking. The first question asks the Commission to identify the “permissible and impermissible uses of campaign funds for an individual who is no longer a candidate or officeholder.” The second question asks the Commission to determine whether there is “a point at which a former candidate or officeholder’s continued spending of leftover campaign funds becomes so attenuated from his or her candidate or officeholder status that the spending is presumptively personal use.”

The Commission seeks comments on the petition. The public may inspect the petition on the Commission’s website at <http://www.fec.gov/fosers>, or in the Commission’s Public Records Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m. Interested persons may also obtain copies of the petitions by dialing the Commission’s Faxline service at (202) 501-3413 and following its instructions. Request document #280.

The Commission will not consider the petition’s merits until after the comment period closes. If the Commission decides that the petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the Federal Register.

On behalf of the Commission,

Caroline C. Hunter,
Chair,
Federal Election Commission.

Dated: March 14, 2018.
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